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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BRANDON K. BASKETT,
Petitioner,

v.

J. SOTO, *Warden*,
Respondent.

Case No. ED CV 16-0091 PSG (JCG)

**ORDER SUMMARILY DISMISSING
ACTION WITHOUT PREJUDICE AND
DENYING CERTIFICATE OF
APPEALABILITY**

On September 30, 2015, petitioner Brandon K. Baskett (“Petitioner”), a California prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus (“Petition”) in the United States District Court for the Eastern District of California. [Dkt. No. 1.] On January 13, 2016, that Petition was transferred to this Court. [Dkt. No. 5.]

Notably, this is not Petitioner’s first federal petition challenging his 2011 state court judgment of conviction and sentence.¹ (*See generally* Pet.) Rather, Petitioner also challenged this *same* judgment in 2015 (“2015 Petition”). [*See* C.D. Cal. Case

¹ Petitioner first cites his conviction date as July 6, 2007, rather than July 6, 2011. (Pet. at 1.) However, a review of the entire Petition reveals that Petitioner in fact challenges his 2011 conviction.

1 No. ED CV 15-1829 PSG (JCG), Dkt. No. 1.] The 2015 Petition was denied. [*See id.*,
2 Dkt. Nos. 6, 9, 10.]

3 Nevertheless, Petitioner failed to obtain the Ninth Circuit's authorization to file
4 a "second or successive" petition before commencing the instant action. *See* 28 U.S.C.
5 § 2244(b). Thus, the Petition is an unauthorized "second or successive" petition, and
6 the Court must dismiss this action for lack of jurisdiction. *See id.*

7 Accordingly, **IT IS ORDERED THAT** this action be **SUMMARILY**
8 **DISMISSED WITHOUT PREJUDICE**, pursuant to Rule 4 of the Rules Governing
9 Section 2254 Cases in the United States District Courts.

10 **IS FURTHER ORDERED** that a certificate of appealability be **DENIED**
11 because Petitioner has not shown that jurists of reason would find it debatable whether
12 this Court was correct in its procedural ruling. *See Slack v. McDaniel*, 529 U.S. 473,
13 484 (2000).

14 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

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17 DATED: 2/2/16



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19 HON. PHILIP S. GUTIERREZ
20 UNITED STATES DISTRICT JUDGE
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